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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,394	01/28/2004	Tomokazu Namiki	R2184.0298/P298	2524
24998 7590 03/11/2008 DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW Washington, DC 20006-5403				
EXAMINER				
DAVIS, DAVID DONALD				
ART UNIT		PAPER NUMBER		
2627				
MAIL DATE		DELIVERY MODE		
03/11/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/765,394

Applicant(s)

NAMIKI, TOMOKAZU

Examiner

David D. Davis

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/CB/CIC)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitsui et al (US 5,930,218). As per claims 1 and 6, Mitsui et al shows in figures 1 and 2 a disk tray unit 10 movably attached to a main body of a disk rotational device for conveying a disk from a predetermined position outside the main body through an opening formed on a frame of the main body to a disk rotating position inside the main body. Also shown in figure 1 and 2 of Mitsui et al is unit 10 conveying the disk from the disk rotating position inside the main body through the opening to the predetermined position outside the main body. Unit 10 includes a tray 12, as shown in figure 1, a recessed portion 40-1 for accommodating the disk; and a disk holding member 40-6/40-7/40-9/40-13 continuously formed on a peripheral wall of the recessed portion. The disk holding member having a front end of a smooth shape without unevenness to reduce resistance of the edge against an air stream when the disk rotates. The disk holding member also projecting toward an inner side of the recessed portion so that the front end faces a portion of a periphery of the disk accommodated in the recessed portion.

As per claim 2, Mitsui et al shows in figure 1 a plurality of the disk holding members. The disk holding members are continuously arranged on the peripheral wall of the recessed portion. The disk holding members as a whole forming the edge of the smooth shape without

unevenness to reduce resistance of the edge against the air stream when the disk rotates. The disk holding members are projecting toward the inner side of the recessed portion. As per claim 3, Mitsui et al shows in figure 1 the disk holding members are arranged to cover the periphery of the disk. As per claim 4, Mitsui et al shows in figure 1 the front end is in a shape of an arc forming a portion of a circle or an ellipse. As per claim 5, Mitsui et al shows in figure 1 at least a side of the disk holding member facing the disk forms a rounded surface.

As per claim 7, Mitsui et al discloses that the disk is an information storage medium. Mitsui et al discloses shows in figure 2 that the disk rotational device further includes a head unit arranged inside the frame and at least performs reproduction of information on the storage medium among operations of recording the information on the information storage medium, deleting the information on the information storage medium, and reproducing the information on the information storage medium. As per claim 8, Mitsui et al discloses that the information storage medium is an optical disk; and the head unit is an optical pickup.

Response to Arguments

3. Applicant's arguments filed December 7, 2007 have been fully considered but they are not persuasive. In the last paragraph on page 5, applicant asserts the following:

In contrast to the present invention, Mitsui is directed to solving the problem of a disk slipping down from a disk tray, so as to realize a vertical installation. Technical problems occurring when the disk rotates at a high speed (as addressed by the present invention) are not addressed by Mitsui.

Contrary to applicant's assertion, Mitsui does address "[t]echnical problems occurring when the disk rotates at high speed (as addressed by the present invention)." Whether or not Mitsui specifically states that it is directed to solving those technical problems is not germane because

the structure of Mitsui is not unlike the structure of claimed product invention. As a result, the disclosed invention of Mitsui need not specifically state that it is addressing the technical problems occurring when the disk rotates at high speed.

In the last paragraph on page 6, applicant contends that

[a]s illustrated in Mitsui, the tongue parts 40_{.6} to 40_{.13} are separate from each other, and there are intervals between them. It is apparent that the collection of the peripheral edge of the tongue parts 40_{.6} to 40_{.13} as a whole does not constitute a smooth shape but has great unevenness.

As stated supra, Mitsui does have a smooth shape without unevenness, and there is nothing in Mitsui that precludes the smooth shape without unevenness of Mitsui from reducing resistance against the air stream when the disk rotates at a high speed.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Davis whose telephone number is 571-272-7572. The examiner can normally be reached on Monday thru Friday between 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne R. Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David D. Davis/
Primary Examiner
Art Unit 2627

ddd